

ORDINANCE NO. 1700

AN ORDINANCE REPEALING SECTION 11.24.060 OF THE SAN BRUNO MUNICIPAL CODE AND ADDING NEW CHAPTER 6.50 PERTAINING TO THE SALE, USE, AND DISCHARGE OF “SAFE AND SANE” FIREWORKS

WHEREAS, California Health and Safety Code section 12500, *et seq.* prohibits the sale, use and discharge of “dangerous” fireworks absent a permit, but authorizes cities to permit the sale, use and discharge of “safe and sane” fireworks, as defined by state law;

WHEREAS, pursuant to San Bruno Municipal Code section 11.24.060, the City of San Bruno has permitted the sale, use and discharge of “safe and sane” fireworks;

WHEREAS, the use of fireworks, including “safe and sane” fireworks has risen to a level that has created a significant increase in the need for police and fire department responses, and resulting in a substantial increase in City costs, including staff time, police and fire department overtime, emergency response, and fireworks debris cleanup;

WHEREAS, the City recognizes that the work of the many non-profit organizations participating in the sale of “safe and sane” fireworks provides a benefit to the San Bruno community; and

WHEREAS, the City desires to accommodate the continued sale, use and discharge of “safe and sane” fireworks, provided additional requirements pertaining to the use and sale of “safe and sane” fireworks are imposed; and further provided a mechanism is established to defray the City 's clean-up and emergency response costs in the interests of protecting the health, welfare and general well-being of the community.

NOW, THEREFORE, the City Council of the City of San Bruno Ordains as follows:

Section 1. Section 11.24.060 of the San Bruno Municipal Code is hereby repealed in its entirety.

Section 2. New Chapter 6.50 (Safe and Sane Fireworks) of Title 6 (Public Peace, Morals and Welfare) is hereby added to the San Bruno Municipal Code:

Chapter 6.50
SAFE AND SANE FIREWORKS

Sections:

- 6.50.010 Sale, use, and discharge of “safe and sane” fireworks allowed.**
- 6.50.020 Use and discharge of “safe and sane” fireworks limited.**
- 6.50.030 Supervision of minors.**
- 6.50.040 Sale of “safe and sane” fireworks limited.**
- 6.50.050 “Safe and sane” fireworks – permit required.**
- 6.50.060 Rules and regulations pertaining to permits and temporary fireworks stands.**
- 6.50.070 Violation—Penalties.**
- 6.50.080 Expiration**

6.50.010 Sale, use, and discharge of “safe and sane” fireworks allowed.

The sale, use, and discharge of “safe and sane” fireworks, which shall have the meaning ascribed to it in Section 12529 of the California Health and Safety Code, is allowed in accordance with the permitting process and the time, manner and place limitations provided in this Chapter.

6.50.020 Use and discharge of “safe and sane” fireworks limited.

A. It shall be unlawful to use or to discharge any “safe and sane” fireworks during “prohibited fireworks use hours.” “Prohibited fireworks use hours” are anytime other than from noon until 10:00 p.m. on June 28th through July 3rd and from noon until midnight on July 4th.

B. It shall be unlawful to possess “safe and sane” fireworks with intent to use or to discharge during “prohibited fireworks use hours,” as defined herein.

C. It shall be unlawful for any person to ignite, discharge, project or otherwise fire or use, any “safe and sane” fireworks, or permit the ignition, discharge or projection thereof, upon or over or onto the property of another within 10 feet of any residence, dwelling or other structure.

D. The use of “safe and sane” fireworks within the city shall be limited to private property, except as otherwise provided herein. No “safe and sane” fireworks shall be discharged on public, semi-public, or private open areas such as parking lots, vacant property, or in public streets or right of ways, absent written consent of the owner.

6.50.030 Supervision of minors.

It shall be unlawful for any person having the care, custody or control of a minor (under 18-years old) to permit such minor to possess, use, discharge, explode, fire or set off any “safe and sane” fireworks unless such minor does so under the direct supervision of an adult (18-years old or older) and only during the hours, days and locations permitted by this chapter.

6.50.040 Sale of “safe and sane” fireworks limited.

The sale of “safe and sane” fireworks shall be limited from noon until 9:00 p.m. on June 28th and from 9:00 a.m. until 9:00 p.m. on June 29th through July 4th. The provisions of this section shall not be applicable to public agencies or manufacturers or suppliers of fireworks for public display or storage. Organizations to which permits have been issued may accept delivery of “safe and sane” fireworks for stocking purposes no more than seventy-two (72) hours prior to the time allotted for “safe and sane” fireworks sales.

6.50.050 “Safe and sane” fireworks -- Permit required.

It shall be unlawful for any person or organization to possess for sale or to sell “safe and sane” fireworks within the city without having first applied for and received a city permit authorizing such sale.

6.50.060 Rules and regulations pertaining to permits and temporary fireworks stands.

The city council shall establish by resolution the rules and regulations pertaining to temporary fireworks stands. It shall be unlawful for any permittee to fail to comply with the rules and regulations pertaining to temporary fireworks stands.

6.50.070 Violation – Penalties.

A. Any person in violation of this chapter shall be subject to the following penalties:

1. An administrative fine not exceeding one hundred dollars (\$100) for a first violation;
2. An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one year;
3. An administrative fine not exceeding five hundred dollars (\$500) for a third violation within one year.

B. Every parent, guardian or other person having the legal care, custody or control of any person under the age of eighteen years, who knows or reasonably should know that a minor is in violation of this chapter may be issued an administrative fine in accordance with the provisions of this section.

C. Administrative fines shall be issued and processed in accordance with the provisions of San Bruno Municipal section 5.08.010 through 5.08.110.

D. In addition to the penalties set forth above, a violation of any of the provisions of this chapter or any of the conditions imposed upon a permit issued hereunder shall subject the permittee to suspension or revocation of its permit and its permittee status, as provided by resolution of the city council in the rules and regulations pertaining to temporary fireworks stands.

6.50.080 Expiration.

This chapter shall remain in effect only until January 31, 2006.

Section 3. This chapter shall supplement and be in addition to the other State codes, statutes and regulations heretofore and hereinafter enacted by the State of California or any other legal entity or agency having jurisdiction over the sale, use, possession, or discharge of "safe and sane" fireworks. Each temporary fireworks stand permittee shall be responsible for compliance with all provisions of this chapter, all resolutions establishing rules and regulations pertaining to fireworks, and all other applicable laws, rules and regulations. This chapter supersedes any conflicting provisions of the San Bruno Municipal Code, the Uniform Fire Code, and Uniform Building Code.

Section 4. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The San Bruno City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5. This Ordinance shall take effect and be in effect 30 days after its adoption.

Section 6. The City Clerk shall publish this Ordinance according to law.

Larry Franzella, Mayor

ATTEST:

Ed Simon, City Clerk

APPROVED AS TO FORM:

Pamela Thompson, City Attorney

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I hereby certify that foregoing Ordinance No. 1700
was introduced at a regular meeting of the San Bruno City Council
on March 8, 2005, and adopted at a regular meeting of the
San Bruno City Council on March 22, 2005, by the following vote:

AYES: Councilmembers: Mayor Franzella, Councilmembers: Ruane, Pallas,
Ibarra, and O'Connell.

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Ed Simon, City Clerk